

CALENDAR ITEM
C12

A 8

PRC 8731

12/14/06

S 4

W 26190

D. Jones

GENERAL LEASE - PROTECTIVE STRUCTURE USE

APPLICANT:

Brannan-Andrus Levee District
P. O. Box 929
Walnut Grove, California 95690

AREA, LAND TYPE, AND LOCATION:

Sovereign lands in the Sacramento River at RM's 10.9L 11.1L, 11.2L, 12.5L, 12.6L, 12.7L, 12.8L, 12.9L, 13.0L, 13.4L, 13.6L, 15.3L, and 15.4L near the city of Isleton, Sacramento County.

AUTHORIZED USE:

The construction, use and maintenance of bank protection.

LEASE TERM:

20 years, beginning December 14, 2006.

CONSIDERATION:

The public use and benefit; with the State reserving the right at any time to set a monetary rent if the Commission finds such action to be in the State's best interest.

OTHER PERTINENT INFORMATION:

1. Applicant has the right to use the uplands adjoining the lease premises.
2. On February 24, 2006, Governor Arnold Schwarzenegger declared a state of emergency (Declaration of State of Emergency of California Levee System and March 7, 2006, Executive Order S-01-06) with respect to California's levee system. Pursuant to this Executive Order, at its meetings of June 26, 2006, November 1, 2006, and November 21, 2006, the Commission authorized the Department of Water Resources and the State Reclamation Board, in separate actions, to repair many critical levee

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sites in Sacramento, Yolo, Sutter and Solano Counties. The Brannan-Andrus Levee District (District) is now applying to the Commission to repair 13 additional emergency levee sites in the Brannan-Andrus Levee Maintenance District under the U. S. Army Corps of Engineers (Corps) PL 84-99 emergency repair authorization.

Each of the proposed levee sites was selected based on a comprehensive erosion site evaluation prepared for the Corps. The evaluation was based on field surveys and quantitative ranking of characteristics, such as bank slope, berm width, length and location of erosion, radius of curvature, bank stability, dynamic geomorphology, vegetation cover, tree hazards, soil type, water velocity, wave action, economic factors, human use, seepage potential and tidal fluctuation.

The erosion damage at each of the sites generally consists of scour, surface erosion, slumping or undermining, or a combination of these factors. It has been determined that the District will install a rock and soil-rock mixture at each site to fill the scoured or lost areas in order to re-establish the supporting slope and bench that were previously present. On appropriate sites, the District will incorporate "woody debris", willow plantings, and shrub vegetation to promote bank stabilization and enhance fish habitat. The designs for repair will identify any existing special status species habitat and designate buffers or restoration measures to assure their persistence after levee repair.

3. Mitigation is incorporated within the designs of the levee repair sites and consists of placing instream woody material, and small diameter substrate, planting vegetated benches near summer water levels, and planting trees and shrubs that will improve shaded riparian areas. Should these onsite features not fully offset project impacts, mitigation, in the form of a setback levee or other fluvial-function restoring measure(s), will be implemented as specified.

In addition, a Biological Opinion is being prepared by the U.S. Fish and Wildlife Service for the additional sites determined, based on compliance with all its terms and conditions, "that this level of anticipated take in this opinion is not likely to result in jeopardy to the delta smelt, valley elderberry longhorn beetle, or giant garter snake, and will not result in the destruction or adverse modification of designated critical habitat."

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4. Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (Title 14, California Code of Regulations, section 15061), the staff has determined that this activity is exempt from the requirements of the CEQA under the general rule that the CEQA applies only to projects which have the potential for causing a significant effect on the environment. The staff believes, based on the information available to it, that there is no possibility that this project may have a significant effect on the environment.

Authority: Title 14, California Code of Regulations, section 15061 (b) (3).

5. Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (Title 14, California Code of Regulations, section 15061), the staff has determined that this activity is exempt from the requirements of the CEQA as a statutorily exempt project. The project is exempt because it involves emergency repairs to public service facilities necessary to maintain service.

Authority: Public Resources Code section 21080 (b) (2) and Title 14, California Code of Regulations, section 15269 (b).

6. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code sections 6370, et seq. Based upon the staff's consultation with the persons nominating such lands and through the CEQA review process, it is the staff's opinion that the project, as proposed, is consistent with its use classification.

APPROVALS REQUIRED:

U.S. Army Corps of Engineers, NOAA Fisheries, U.S. Fish and Wildlife Service, California Department of Fish and Game, the Reclamation Board, and the California Regional Water Quality Control Board

EXHIBIT:

- A. Site and Location Map

PERMIT STREAMLINING ACT DEADLINE:

January 21, 2007

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RECOMMENDED ACTION:

IT IS RECOMMENDED THAT THE COMMISSION:

CEQA FINDING:

FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15061 BECAUSE THERE IS NO POSSIBILITY THAT THE ACTIVITY MAY HAVE A SIGNIFICANT EFFECT ON THE ENVIRONMENT; TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15061 (b)(3).

FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15061 AS A STATUTORILY EXEMPT PROJECT PURSUANT TO PUBLIC RESOURCES CODE SECTION 21080 (b) (1) AND TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15269 (b), EMERGENCY REPAIRS TO PUBLIC SERVICE FACILITIES NECESSARY TO MAINTAIN SERVICE.

SIGNIFICANT LANDS INVENTORY FINDING:

FIND THAT THIS ACTIVITY IS CONSISTENT WITH THE USE CLASSIFICATION DESIGNATED BY THE COMMISSION FOR THE LAND PURSUANT TO PUBLIC RESOURCES CODE SECTIONS 6370, ET SEQ.

AUTHORIZATION:

AUTHORIZE ISSUANCE TO THE BRANNAN-ANDRUS LEVEE DISTRICT OF A GENERAL LEASE – PROTECTIVE STRUCTURE USE, BEGINNING DECEMBER 14, 2006, FOR A TERM OF 20 YEARS, FOR THE CONSTRUCTION, USE, AND MAINTENANCE OF BANK PROTECTION AS SHOWN ON EXHIBIT A ATTACHED AND BY THIS REFERENCE MADE A PART HEREOF; CONSIDERATION BEING THE PUBLIC USE AND BENEFIT, WITH THE STATE RESERVING THE RIGHT AT ANY TIME TO SET A MONETARY RENT IF THE COMMISSION FINDS SUCH ACTION TO BE IN THE STATE'S BEST INTEREST.

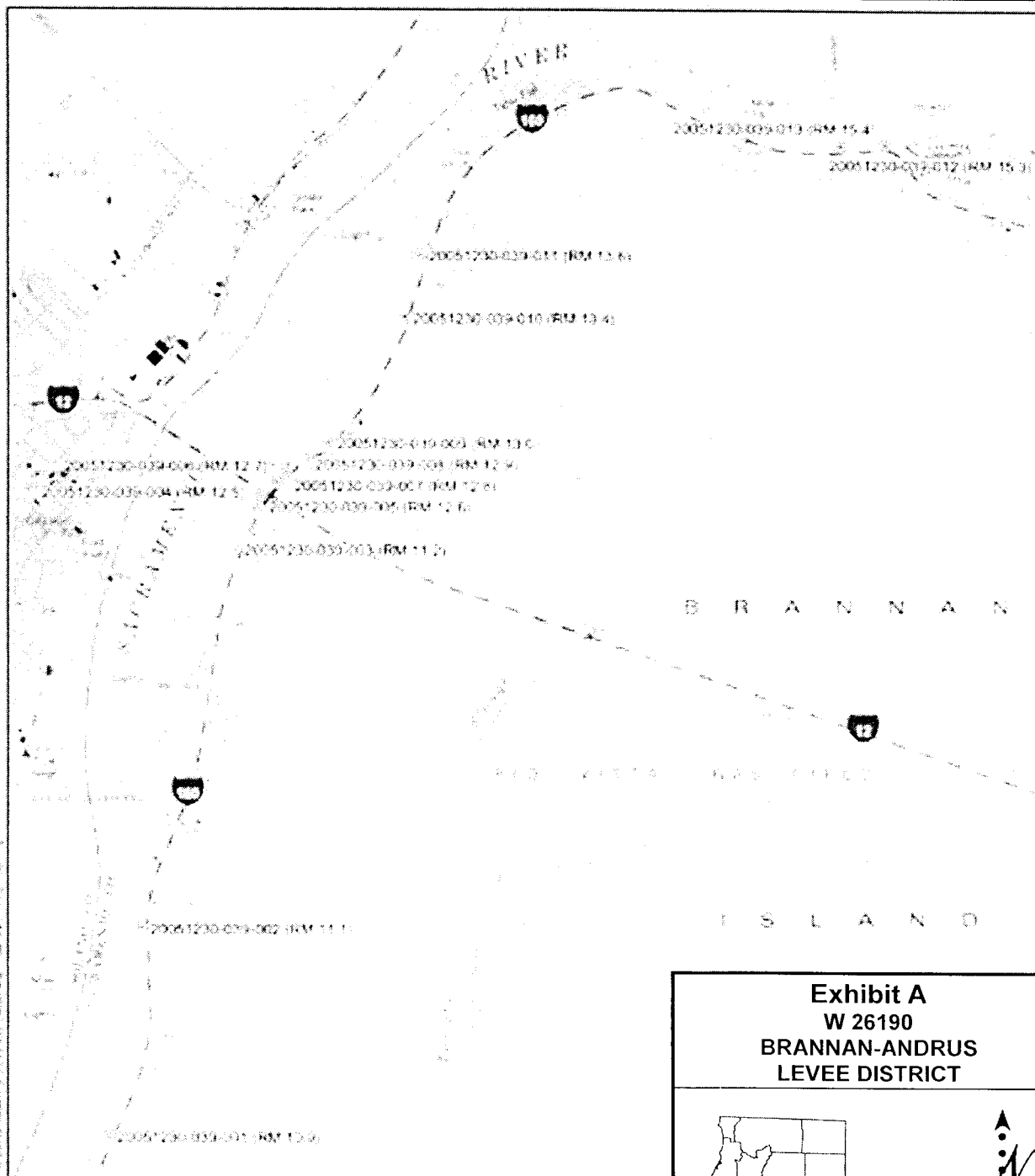


Exhibit A
W 26190
BRANNAN-ANDRUS
LEVEE DISTRICT



This exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the Lessee or other parties, and is not intended to be, nor shall it be construed as a waiver or limitation of any State interest in the subject or any other property.